

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

NICOLE PALMER

Plaintiff

v.

PENNSYLVANIA STATE POLICE, et al.

Defendants

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3:17-CV-00371  
(JUDGE MARIANI)

ORDER

AND NOW, THIS 26<sup>th</sup> DAY OF OCTOBER, 2018, upon review of Magistrate Judge Carlson's Report and Recommendations ("R&R") (Docs. 31, 32) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

1. The R&Rs (Docs. 31, 32) are **ADOPTED** for the reasons set forth therein.
2. Defendant Frank Noonan's Motion to Dismiss Plaintiff's Complaint (Doc. 6), is **GRANTED**. The claims against Defendant Noonan in his official capacity are **DISMISSED WITH PREJUDICE**. The claims against Defendant Noonan in his individual capacity are **DISMISSED WITHOUT PREJUDICE**.<sup>1</sup>

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<sup>1</sup> Although the Magistrate Judge recommends that Count VIII be dismissed with prejudice as to the PSP Defendants (Doc. 32), the Court interprets Magistrate Judge Carlson's R&R addressing Defendant Noonan's Motion (Doc. 31), to which no party filed objections, as recommending dismissal of the entire complaint against Defendant Noonan with leave to amend. Because no objections were filed to either R&R now before the Court (Docs. 31, 32), upon review for clear error or manifest injustice, they are adopted based on the Court's understanding that leave to amend all claims against Defendant Noonan was recommended by the Magistrate Judge. However, had this Court been presented with an objection wherein dismissal of the Intentional Infliction of Emotional Distress claim (Count VIII) against Noonan was sought with prejudice, the Court may well have sustained such an objection.

3. The Amended Motion for Partial Judgment on the Pleadings filed by the Pennsylvania State Police ("PSP") Defendants (Doc. 24) is **GRANTED IN PART AND DENIED IN**

**PART AS FOLLOWS:**

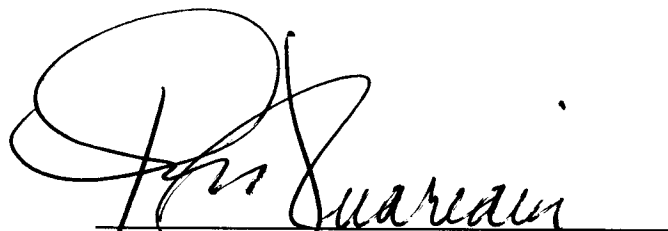
a. The PSP Defendants' Motion is **GRANTED** to the extent that it seeks dismissal of Plaintiff's claims in Counts III-VIII.

i. Counts III, IV, and V are **DISMISSED WITHOUT PREJUDICE**.

ii. Counts VI, VII, and VIII are **DISMISSED WITH PREJUDICE** as to the PSP Defendants.

b. The PSP Defendants' Motion is **DENIED** to the extent that it seeks the entry of judgment.

4. Plaintiff is **HEREBY GRANTED 21 days from the date of this Order** to file an Amended Complaint as to those Counts and Defendants where leave to do so has been granted.



Robert D. Mariani  
United States District Judge